IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.354 OF 2007

Shri Haresh Dhanraj Motwani & Anr. ...Appellants

Versus

Municipal Coporation of Gr.Bombay ...Respondent

Shri Anilkumar Singh for the Appellants.
Ms Geeta Joglekar for the Respondent.

CORAM : ABHAY S.OKA, J.
DATED : MAY 04, 2007.

P.C.:

1. Heard Advocates appearing for the parties. After arguing the Appeal for sometime, the learned Advocate appearing for the Appellant seeks permission to unconditionally withdraw the Appeal From order as well as the suit. However, the Appellant seeks liberty to apply for regularisation of the offending structure.

2. The learned Advocate appearing for the Respondent invited my attention to letter dated 05th December, 2001/29th December, 2001 sent by the Assistant Engineer of Building Proposal Department of K-West Ward of the Respondent to the Appellants by which a refusal to the proposal for regularisation submitted by the Appellants has been communicated. The grounds on which the Application for regularisation has been rejected are also mentioned in the said communication. The learned

Advocate for the Respondent submitted that even if the Appellants desire to apply for regularisation, they will have to comply with the conditions incorporated in the said letter. The learned counsel for the Appellant submitted that it will be for the Respondent-Corporation to decide whether any of the conditions can be waived.

3. Considering the submissions made, I pass the following order:

(i) The Appeal From Order and L.C.Suit No.1081 of 2002 are dismissed as withdrawn.

(ii) If an Application of regularisation is made by the Appellants to the Executive Engineer (Building Proposal), Western Zone of the Respondent-Corporation within a period of eight weeks from today, the said Application shall be decided by the concerned authority of the Respondent-Corporation within period of eight weeks from the date of receipt of the Application.

(iii) It will be open for the Respondent to call upon the Appellant to comply with requirements mentioned in communication dated 05th December,

2001/29th December, 2001 and the Appellants can always apply for waiver of any of the said requirements.

(iv) The order made on the proposal for regularisation shall be communicated by the Respondent to the Appellants within a period of one week from the date of the passing of order.

(v) If Application for regularisation is made within the stipulated period of eight weeks from today, no action for demolition shall be taken by the Respondent for a period of twenty-four weeks from today. However, if the Appellants fail to apply for regularisation within the stipulated time, it will be open for the Respondent to take action of demolition after expiry of the said period of eight weeks.

(vi) Application for regularisation shall be decided in accordance with law.

(vii) The trial Court will pass a formal order on the suit on receipt of the writ of this order.

(viii) Parties to act upon an authenticated copy of

this order.

JUDGE